THE EXAMINER.

No. 102. SUNDAY, DEC. 10, 1809.

THE POLITICAL EXAMINER.

Party is the madness of many for the gain of a few. SWIFT.

No. 100.

COMMON COUNCIL.

The City Address to his Majesty, in reprobation of the Walcheren Expedition, has been carried in a manner highly creditable to Mr. WAITHMAN's exertions, but very little so to the Common Council as a body. The majority against the Previous Question consisted only of One, which was produced by the Lord Mayor's casting vote; and the whole majority in favour of the Address amounted but to Three. The Aldermen however, together with his Lordship, did themselves much honour on the occasion, nine of them being for Mr. WAITHMAN, in both instances, against four. The DIXONS, and the BIRCHES, and the CURTISES were, as usual, in their full flow of corruption towards the Court: nobody expects a gutter suddenly to become a limpid stream. But what feeling the rest of the minority can entertain with regard to the miseries of Walcheren, is a subject not to be discovered perhaps but in a small title or a shopman's till. "Where the treasure is, there will the heart be also." The subject of Walcheren has long been a question of feeling, and not of politics: the Expedition was so absurd in the outset, it's facilities and obstructions so entirely miscalculated, and it's event so true to all these circumstances, that argument was soon exhausted on the subject: it's most anxious defenders had nothing to say for it, but that it's calamities were unforeseen, and that those who foresaw these calamities were no judges. Indeed, on this and all the other ministerial measures, the best argument as well as the best satire that can be brought against them, is the simple statement of facts: and one of the best expositions, that has been lately made, of their mal-practices, was managed in this way by the Rev. Mr. SHEPHERD, who in his speech at Liverpool on the anniversary of Mr. ROSCOE's election, ran through the history of the present Administration with as much pith as conciseness.

Walcheren therefore became one of the very few subjects, on which a political difference is in some measure the test of moral sentiment, or rather, on which the difference is moral and not political. In questions of common expediency, whether in peace or war, or in general maxims of government, controversy, however it may disturb the passions, affects the character of the understanding only: thus if two friends dispute upon the balance of trade, or the value of agriculture and commerce, their tempers may be a little roused, and their knowledge of the subject be mutually suspected, but they separate with as good an opinion of each others' hearts as ever: conscious also of their own infirmities, they make allowance for the infirmities of statesmen and of human nature, and try to make the best even of wars and sanguinary battles, when important in their result; but when you hear a person professing to set at nought great principles for the sake of little purposes, when you hear him making a god of his selfishness, sacrificing to it all other considerations, and giving either an impudent reason that "One must take care of one's-self in this world"—or a hypocritical one, that "Such maxims are the oil of government-wheels,"—that wretch is a mark to be avoided by every honest man:—

Hic niger est; hunc tu, Romane, caveto.—HOR. Sat. 4.

He is branded every limb:
Englishman, beware of him.

As there is a laudable expediency which may sacrifice even thousands for the comfort of nations, so there is a detestable expediency, which will sacrifice thousands for the momentary convenience of *three* or *four*. Ignorance was the first mover of the Expedition to Walcheren, but this latter expediency has been the sole cause of the delay in evacuating it; and when you see a set of men giving their heartiest sanction to this delay by refusing to join even in a call for its reasons—thus making the lives and happiness of thousands a matter of no consequence—a matter not worthy even of an interrogation—you have before you some of the most wretched specimens of the human race. A Tartar has for his excuse the barbarity of his education, a Turk the despotism of his religion, an Otaheitean the depravity of all about him; but an unfeeling money-getter is a savage, who absolutely lives in society without imbibing any of its spirit; who puts off his uncomfortable humanity as other savages do the clothes that are given them; and whose gregarious virtues at best remind one of those animals in the East, who live upon the corruptions and dead carcases of cities, envying and snarling at each other for every fresh morsel, and uniting only against the good citizen who should attempt to purify their haunts.

It is the fashion just now to call BONAPARTE Antichrist, the Beast with Seven Heads and Ten Horns, &c. &c. and so it was the fashion to call the Emperor CHARLES 5th, CHARLES the 12th of Sweden, LOUIS the 14th, and any other monarch who has shaken Europe; but if you wish to see those who have the real "mark of the beast" upon them, go to a City-dinner, and after the battles for trout and the buffetings for turtle, after the rattling of wine glasses and plethoric throats, after the swillings and the gormandizings, and the maudlin hob-and-nobs, and the disquisitions on smothered rabbits, and the bloated hectics, and the blinking eyes and slurred voices, and the hiccups, the rantings, and the roars, hear an unwieldy Loan-jobber

descanting on our Glorious King and Unshaken Constitution! The stranger, that after this sight, goes to see the beasts in the Tower, is an enemy to all true climax.

But while the greater part of these abettors of the Ministers were content silently to give them their votes as their future Beef-and-baronet Mongers, those who were compelled to speak on the occasion, were compelled to conjure up something like a reason, and accordingly they deprecated the necessity of appealing to the King, because the Parliament was about to meet! Parliament about to meet! They might as well have said, because Sir WILLIAM CURTIS was about to make Parliament-gingerbread. If the approaching Session is to be at all considered on the occasion, it should be as a spur and not as an obstacle to the Address, and for three reasons: 1st, Because the King should hear as much as possible the voice of the people on the subject, and not be deceived either by his Ministers, or their newspapers, or their Parliamentary majorities; 2d, Because the Parliament itself should hear as much as possible the voice of the people, and not be flattered into Ministerial measures by the silence of the metropolis; and 3d, Because the people themselves, all over the kingdom, should hear the voice of the metropolis calling upon them to make inquisition for the pestilential slaughter of their countrymen. The Parliament is too well known on these occasions; and it adds little credit to that Assembly, that the Jobbers and Contractors are so willing to wait and hear what it has to say. The fact is, they anticipate their own speeches on the occasion: divide as they will, the division will not be against the Ministers collectively: one Jobber may be for CANNING, and another for CASTLEREAGH, but the dissolution of the existing Ministry, come when it will, will be owing to a suicide, of which the late duel has been the first wound. The Parliament, it is true, never had a finer opportunity of shewing its independence of a Ministry; but even the Whigs have become so tired of *waiting*, that their best organ, the *Edinburgh Review*, begins to change its tone; and the Scotch wits, who formerly talked of the little imperfections of Parliament as a Lover would of a cast in his Mistress's eye,

Lovely if it but look on *him*,

now threaten in case of a Ministerial majority, to consider the whole Assembly as "condemned," and "to appear in the foremost rank of those who must acknowledge that they are convinced and converted:"—nay, though they must have heard sometime ago, that there is a peevish little Personage in the city of Westminster, to whose comfort at breakfast a fresh libel has become as necessary a provocative as ham or potted beef is to smaller epicures, they venture to predict, that in case of "a refusal to punish the authors of our misfortune,"—"the responsibility of our rulers, that fairest feature in the theory of our Constitution, will be no longer even a name; *and the people will recognize, in the Great Council of the Nation, not the Guardian of their Interests, and the Champion of their Rights, but* A WELL-CONTRIVED INSTRUMENT OF TAXATION."*

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* Edinburgh Review, No. 29, p. 235. The whole of the two last paragraphs of this Number, containing the above quotation, will be inserted in our next.

FOREIGN INTELLIGENCE.

FRANCE.

BAYONNE, Nov. 16.—Every preparation is making here for the reception of our beloved Emperor. Marshal Ney is expected here every moment. His Excellency will again take the command of the 6th corps of the army of Spain. Our Mayor has, by a Proclamation, announced the speedy arrival of a great number of troops, who are on their march. From 20 to 25,000 men will pass through this city between this time and the 2d of December.

GERMANY.

MUNICH, Nov. 12.—The most perfect tranquillity prevails in the Valley of the Inn. The peasants are laying down their arms, and in general behave in the most peaceable manner. The celebrated Hoffer published on the 8th a Proclamation, in which he invited all the Tyrolese in arms to submit. The destruction of the bridges between Steinach and Brixen is the only obstacle that prevented the junction of the corps of Gen. Drouet and the Prince Viceroy from taking place on the 10th. We are assured that Gen. Baraguay D'Hilliers has had an action near the Clause of Muhlback, which terminated in the dispersion of the insurgents.

PROVINCIAL INTELLIGENCE.

LIVERPOOL.—An Association has been formed in this town, for preventing wanton cruelty towards brute animals. One object of such a society will, it is hoped, be to hold out to public execration those individuals who, whilst they violate no express law of the land, and are therefore probably not liable to a prosecution in a Court of Justice, violate with impunity every principle of religious and moral feeling. As there may be persons, however, who consider such an Association not called for by existing circumstances, we shall relate two instances of wanton cruelty, which have occurred in the short interval of a fortnight; and when it is considered that the discovery of these was merely accidental, it is dreadful to reflect how commonly such barbarities may prevail.—A gentleman in this town, who is ready to attest the fact upon oath, relates that one of his fowls, whilst he was absent at church, flew into his neighbour's garden, and consequently committed some little trespass; for this offence, the poor animal was seized, and literally plucked alive, and in that condition was turned out to endure a horrible and lingering death. The other instance, and which is related by an eye witness, is of a publican in this town, who having caught a mouse in an iron trap, placed the animal thus inclosed close to the bars of the grate, with the horrid design of destroying it by prolonged torture. One of the spectators insisted upon its being removed, and it was taken out and placed upon a table, where it soon perished in great agony!

On Wednesday afternoon, about four o'clock, the Rev. W. Moseley, of Hanley, Staffordshire, was shot at, while standing by the window of the parlour, on the east side of his house; providentially he was not hurt.—This is not, we understand, the first attempt that has been made to do him some lasting injury.

On Tuesday last as corporal Nunn, and two privates of the Suffolk Militia, were escorting Wm. Matcherson, who had sur-

rendered himself as a deserter from the 2d dragoons, unhandcuffed, he attempted to escape in the following manner:—Near Keswick, the deserter suddenly seized the piece of the man in front, and immediately turning round, striking the corporal on the breast, drove him back a few paces, in order that he might have room to act with the seized firelock, which was ready loaded. The corporal finding himself in such a situation, dropped down upon one knee, and firing low, with intent to disable him from running away, wounded him in the knee: at the same instant the deserter fired at the corporal, and wounded him in the upper part of the right thigh so desperately, that he has since undergone amputation; but he is in a fair way of recovery.

The vicinity of Croydon has been alarmed, for this fortnight past, by an inhuman wretch, who sallies out at night, in a black mask, a dark coloured cloak, and military boots, with long spurs. He is a tall stout made man. His practice is to attack all the women whom he meets. Having let the object pass, he turns round, and, seizing her by the shoulders, he shakes and pinches her in a violent manner. He concludes the brutal assault, by passing her clothes over her head, and tearing her person with a curry-comb; sometimes his spurs are applied to the same cruel and inhuman purpose. Should he perceive any person coming to the assistance of his victim, he makes off, and leaps over park pailings, or walls, although twelve feet high, with the greatest ease. By his strength and agility, he has hitherto evaded his pursuers. Upwards of fifty persons have been most seriously ill-treated by this monster; amongst whom is Mrs. Wildgoose, the wife of a respectable gentleman at Croydon; she now lies dangerously ill from the treatment she lately received, on her return from a visit to her niece. Also the ostler of the Hare and Hounds, at Wadding, whom he mistook for a woman, owing to the darkness of the night, and whom he caught hold of, and, finding his mistake, threw the poor man into a deep ditch. The inhabitants of Croydon are taking every means to discover the monster's retreat: numerous parties were out lately in search of him. The terror is so great among the females of the vicinity of Croydon, that not a woman is to be seen out of doors after dusk.—*Morning Paper.*

TUESDAY'S LONDON GAZETTE.

This Gazette contains the details of the capture of the Islands of Zante, Cephalonia, Cerigo, and Ithaca, by an expedition, consisting of 1800 troops, under the command of Brigadier-General Oswald, which sailed from Sicily on the 23d of September, in several transports, convoyed by the Warrior and Philomel, under the command of Captain Spranger. Zante capitulated on the 2d of October, after a trifling resistance; Cephalonia, without opposition, on the 4th; Cerigo on the 12th, after sustaining our attack for two days, in which we had only one killed and two wounded; and Ithaca on the 8th, to the Philomel.

A letter from Lord Collingwood incloses the details of an attack made by the boats of the Excellent, Acorn, and Bustard, on a convoy of the enemy at anchor under the fortress of Dain, to the westward of Trieste, in which all the enemy's vessels, consisting of 6 gun vessels and 10 trabaccolas, were captured.

BANKRUPTS.

S. Singer, Westbury, Wiltshire, clothier. Attornies, Messrs. Davies and Davies, Warminster.

W. Clancy, St. Mary Axe, merchant. Attorney, Mr. Wild, jun. Castle-street, Falcon-square.

A. Redpath, Phillip-lane, Aldermanbury, builder. Attornies, Messrs. Palmer and Co. Copthall-court.

T. King, Gosport, grocer. Attorney, Mr. Paddon, Fareham, Hants.

R. Wolgar, West Cowes, Isle of Wight, smith. Attorney, Mr. Minching, Gosport.

W. Kirkpatrick and R. Cort, Bread-street, Cheapside, warehousemen. Attorney, Mr. Hurd, Temple.

T. Russell, Dursley, Gloucestershire, innkeeper. Attorney, Mr. Bloxsome, Dursley.

J. Dodgson, Pocklington, Yorkshire, cornfactor. Attorney, Mr. Holmes, Pocklington.

R. Lye, Goswell-street-road, builder. Attorney, Mr. Charsley, Mark-lane.

N. Wm. Cundy, Great Marlborough-street, bricklayer. Attorney, Mr. Trickey, Howland-street, Fitzroy-square.

I. Satterthwaite, Tamworth, Warwickshire, wine merchant. Attorney, Mr. Dawes, Angel-court, Throgmorton-street.

J. Frodsham, Kingsgate-street, Holborn, watchmaker. Attorney, Mr. Davies, Warwick-street, Golden-square.

SATURDAY'S LONDON GAZETTE.

At the Court at the Queen's Palace, the 6th of December, 1809, present, the King's most excellent Majesty in Council.

His Majesty having been pleased to appoint the most Noble Richard Marquis Wellesley, K. P. to be one of his Majesty's Principal Secretaries of State, he was this day, by his Majesty's command, sworn one of his Majesty's Principal Secretaries of State accordingly.

[This Gazette contains some further details respecting the taking of Zante, Cephalonia, Cerigo, and Ithaca; but they are not worth insertion.]

BANKRUPTS.

F. Nicholson, East Retford, Nottinghamshire, mercer. Attorney, Mr. Mason, East Retford.

J. Baker, Kingstanley, Gloucester, baker. Attorney, Mr. Ward, Gloucester.

R. Barrow, Long Dean Mill, Wiltshire, paper-maker. Attorney, Mr. Wingate, Bath.

P. Grove, Cardiff, straw-hat-manufacturer. Attorney, Mr. Mawley, Dorset-street, Salisbury-square.

J. Jenkins, Cow-court, Rotherhithe, timber-merchant. Attorney, Mr. Cartar, Deptford.

J. Young, Cheltenham, dealer. Attorney, Mr. Berry, Bucklersbury.

J. Eggleton, Dean's-court, St. Martin's-le-grand, goldsmith. Attorney, Mr. Phipps, Gutter-lane, Cheapside.

R. Phillips, Hay, Brecknshire, shopkeeper. Attorney, Mr. Cooke, Bristol.

J. Clark, St. Mary Stratford, Bow, butcher. Attorney, Mr. Harding, Primrose-street, Bishopsgate-street.

W. Hodgkinson, East Redford, Nottinghamshire, ironmonger. Attorney, Mr. Hannam, East Redford.

J. Ivey, Crediton, Devonshire, linen-draper. Attorney, Mr. Williams, Red Lion-square.

W. Weaver, Rood-lane, merchant. Attorney, Mr. Kirkham, Shorter's-court, Throgmorton-street.

J. Smith, North Warnborough, Hampshire, sack-maker. Attorney, Mr. Hector, Petersfield.

A. Sheppard, Leeds, milliner. Attorney, Mr. Coupland, Leeds.

W. Bull, Bristol, grocer. Attorney, Mr. Cornish, Bristol.

We hear from various quarters, that an issue from the Bank of *Ten Shilling Notes* will shortly take place. This would be thought nothing of in Ireland, where *ten-penny* Notes are in common circulation; but here the news is quite alarming to the good folks. We ourselves know that *silver* has within these few days become extremely scarce;—as for *Guineas*, no one expects (except perhaps our allies abroad) ever to see them current again. We should like to know how many waggon loads of specie have been sent to Portugal, Spain, and Walcheren. Such things, however, cannot last long, that's some comfort.

Ward Meetings are called in the following Wards for the purpose of instructing the Common Council to support the proceedings of last Court:—Castle Baynard, Farringdon Within, Cripplegate and Aldersgate. Requisitions are signed for Billingsgate and other Wards.

PRICE OF STOCKS ON SATURDAY.

3 per Consols 70 ½ | Red. Ann. 69 ⅛ | Omnium.. 2½ prem.

TO CORRESPONDENTS.

The PERSIAN IN LONDON, a LETTER TO THE DUKE OF NORFOLK, and other Communications, shall have insertion next week, if possible.

The generous offers, that have just been made to the Proprietors of the *Examiner* both by personal application and by letter, merit all their thanks; and they would but vainly attempt to describe to J. T. and their old correspondent SCARECROW in particular, how proud they are of these marks of attachment from men of intellect and independence. But the same reasons that induced them to decline offers of a similar nature on a similar occasion, induce them to do so now: and all that they can do in return for the kindness, is still to prove themselves worthy of an attachment, which, next to their consciences is the best reward that can animate their firm though humble endeavours against corruption.

THE EXAMINER.

LONDON, DECEMBER 10.

THE evacuation of Walcheren is at last really commenced; but the Ministers in their anxiety for consistent character, contrive to render it as slow as possible. A very small part of the troops have hitherto arrived; and even these would probably have been delayed from day to day, had not the Parliamentary Session approached. What that session will bring forth in excuse for the delay, it is impossible to conjecture: Ministers may say, that it was at the particular request of the inhabitants—that it was in contemplation of the speedy conclusion of November and the fogs—that it was of great use to Austria, particular use to Spain, and most indescribable use to—to—the independence of Tartary—that a desertion of Flushing so soon after its capture would have looked *so* strange in the eyes of the French—that soldiers must bear fatigue and sickness—that war has its unavoidable miseries—that smuggling may *sometimes* be beneficial—that a trial of the place was due to the noble planner of the Expedition, *in delicacy to his feelings*; and lastly, if they please, they may state the true cause, viz. that having committed a gross error, their puerile and impatient vanity made them persist in it with an obstinacy, which would have shamed the veriest detected apprentice that ever threw his master's affairs into confusion. When the House echoes with the thousands of money and of human beings that have been sacrificed to this vanity—when it echoes with the thousands that have been sacrificed in order that one petty intriguer might *facilitate*—to use the delicate language of diplomacy—might facilitate his immediate views, and that another petty intriguer might continue to astonish his footmen and sip his tea with an air of importance—when the House hears of these sacrificed thousands, and its mind, passing over the usual pretences and surfaces of such politicians, dives into first causes, and sees the spring of these miseries in the most shallow and despicable weaknesses of the human heart, then if it does not utter all the contempt that common sense and violated humanity can suggest, it is indeed no longer the voice, it has in fact no longer the feelings which were once the characteristic of the British nation. The English have borne imposts, and deprivations, and infringements, with a stoicism somewhat beyond their best reputation for philosophy; but when they see thousands of their countrymen, at the pleasure of a few squabbling state-quacks, shipped off to a land of pestilence, like so many devoted malefactors,—if they cry not aloud for retribution on such an occasion, they may be fit for singers or fit for slaves—but they have no longer the voices of their forefathers—they are no longer Englishmen—they are no longer men.

The Russians are reported to have taken Constantinople. The report looks forward to an evident probability, but at present seems very premature, as nothing has been yet heard to prepare us so immediately for this death blow to European Turkey. The surrender of that city, though one of the least important, will not be one of the least interesting events of our time. History has given it a dignity of which not even the Turks could deprive it.

The *Times* Newspaper has published the following Letter from NAPOLEON to the Russian Emperor, of which it pledges itself to the authenticity. These pledges of Newspapers, it is well known, mean little else but that the Proprietors believe in the authenticity alleged. The Letter has nothing to recommend it but the name at bottom. If it is forged, it shews no particular art in the writer: any person at all acquainted with Newspapers might have written it:—if it is really from the hand of BONAPARTE, it wants his usual pith. The only test on these occasions is to call for the original and its history.

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"MONSIEUR MY BROTHER—The Duke of Vincenza informs me, that your Imperial Majesty wished for peace with Sweden, and that you have obtained the advantages which you desired. Will your Majesty permit me to congratulate you upon the event?

"The negociations of Altenburgh have been transferred to Vienna. Prince John of Lichtenstein conducts them with Monsieur de Champagny, and I expect I shall soon be able to inform your Majesty of peace being concluded with Austria. You will see by the treaty, that conformably to your wishes, the greater part of Gallicia will not change masters; and that I have managed your interests as you would have done yourself, conciliating every thing with that honour required of me. The prosperity and welfare of the Duchy of Warsaw require that it should possess the favourable regards of your Majesty; and your Majesty's subjects may rest assured that, in no case, nor under any circumstances, have they to expect any protection from me.

"I have given Austria the most advantageous peace that she could expect. She only loses Saltzburgh, and a mere trifle on the side of the Inn. She cedes nothing in Bohemia. On the side of Italy she cedes only what is indispensable for my communication with Dalmatia. The Austrian Monarchy, there-

fore, remains entire. This is the second experiment which I have been willing to make. I have used towards her a moderation which she had no right to expect. In this I hope I have done what is gratifying to your Majesty.

"I send your Majesty the English Journals last received. You will there see that the English Ministers are fighting with each other; that there is a revolution in the Ministry, and that all is perfect anarchy. The folly and absurdity of that Cabinet are beyond description. They have recently occasioned the destruction of from 25 to 30,000 men in the most horrible country in the world; it would have been just as well to have thrown them into the sea, so pestilential are the marshes of Walcheren! In Spain they have lost a very considerable number of men. General Wellesley has had the extreme imprudence to commit himself in the heart of Spain with thirty thousand men, having on his flanks three armies, consisting of 90 battalions, and from 40 to 50 squadrons, whilst he had in his front the army commanded by the King, which was of equal force. It is difficult to conceive such an act of presumption. It remains at present to be ascertained who are to succeed the late Ministry.

"The United States are on the worst terms with England, and seem disposed, sincerely and seriously, to approximate to our system.

"I pray God, Monsieur my Brother, to have you in his high and holy keeping. (Signed) "NAPOLEON."

"*Schoenbrunn, Oct.* 10, 1809."

The following first appeared in the *Pilot* Evening Paper, which is said to be the property of the WELLESLEYS:—

"Information was communicated to Marquis Wellesley that a plot existed to seize the Junta while engaged in Council—to put to death some, and to send others to South America—to declare a Regency under the old Cardinal Bourbon, the Duke Del Infantado, and the Marquis Romana, and that the Duke's regiment of Guards, then at Seville, were to be the principal actors in the plot. The Marquis could not of course suffer such a design to be executed without immediately giving notice to the Junta. The Junta alarmed, threw themselves on his Lordship, who promised to go instantly to the Duke, but urged the imperious necessity of their attending to the popular wishes, convoking the Cortes, and reforming the administration of affairs. This was promised, and the Marquis conferred with the Duke, who so exerted his influence with his Guards, that the design was not carried into execution. The Junta, relieved from danger, removed the Duke's regiment, and introduced troops upon whom they could rely, and shewed a reluctance to fulfil their promises. The greatest indignation was again excited against them, and the Marquis de Romana upbraided them in the most cutting terms.—Fearful of popular vengeance, the Cortes were at length to be convoked."

But it is now too late for this measure to be effectual, for the day of salvation is too far spent, and the sun of Spanish independence is set.

"*Flushing, Dec.* 3.

"The English are all preparing to leave us. Many of the inhabitants of this town are packing up, and going to Holland, dreading the inundations during the winter, as the different basons have been destroyed. The dock is ruined, and the arsenal is undermined to be blown up. The sluices are also to share the same fate. The damage which will be done to this town will at least require ten years to repair.

EAST INDIAMEN.—There has been most dreadful havoc of late among our India shipping:—The Britannia, Lord Gardner, Walpole, Skelton Castle, Travers, and Asia, have been lost: the Experiment, Glory, Lord Nelson, Duchess of Gordon, Lady Dundas, Bengal, and Calcutta, are missing, supposed lost; and the Streatham and Europe have been recently captured by the French!

The King of Bavaria has followed the example of his Brother of Saxony, and is now at Paris, where are assembled the following personages:—BONAPARTE, the King of Saxony, the King of Bavaria, the King and Queen of Holland, the King and Queen of Westphalia, the King and Queen of Naples, the Viceroy and Vice Queen of Italy, the Prince and Princess of Lucca and Piombino, the Prince Primate, the Prince of Bavaria, the sacred Conclave.

Some American Papers have been received to the 27th October. They confirm the account of the refusal of the President to receive the Minister of FERDINAND VII. It was at the same time notified to the Representative of the Spanish Government, that no Minister would be received from King JOSEPH. Mr. JACKSON had commenced his negociations with Mr. SMITH, the Secretary of State, but the result was not expected to transpire before the meeting of Congress, which was not to take place till the latter end of November. The yellow fever still continues its ravages at Charleston.

The result of the trial, CLIFFORD v. BRANDON, has roused all the energies of the O. P. men, who, like "giants refreshed," have returned to all their old practices with redoubled ardour. From the half price, nothing is now heard at Covent-garden Theatre but the shouts of the "rioters," and the submission or ruin of the Proprietors must shortly take place.

On Wednesday, at the Wrekin Tavern, in Broad-court, Bow-street, Mr. J. BRANDON, conversing on the subject of the Theatre, exclaimed, "I wish the audience would pull the Theatre to pieces, that we might come upon the County for Damages." Such was, it seems, the opinion, for we state it only as an opinion delivered in the freedom of conversation, of Mr. JAMES BRANDON.—Whether such a mode of settling the unprofitable 6½ per cent. account would be satisfactory to the Proprietors, we have not the means of judging—it would doubtless be most summary; but the county might, perhaps, object to the admission of the memorable Report on that subject, as evidence. We however sincerely hope, that the Public will by no provocation be misled into the commission of damage upon any part of the property of the house. That attempts may be made to entrap the Public into the commission of some such violence, there are some reasons for believing. Mr. Serjeant SHEPHERD, and other learned men, it is said, were at the Theatre after the trial—and in the course of the evening, a piece of one of the benches in the Pit being thrown on the stage and shewn to the men of law, great satisfaction was expressed, and the relic was directed to be most carefully preserved. Possibly, the learned Serjeant, imitating the orators of Greece and Rome, may on the next trial suddenly produce this valuable relic from beneath his gown, to the astonished Jury. The Proprietors are now waiting, in the hope of laying hold of some individual who may be entrapped into the commission of some unequivocal act. On such individual will their vengeance be wreaked.

A young Roscius, but rather of maturer age than Master BETTY, has sprung up in America. He is a youth of the name of PAYNE, in his 17th year, who, according to the Journals of that country, has given greater promise of theatrical excellence than any performer that has yet appeared there. They place him far above COOPER, who has been long at the head of the tragic walk on the American stage.

On Monday, the completion of the West Middlesex Water Works was celebrated at their Re ervoir at Kensington Gravel Pits, on which occasion the neighbourhood was thronged with beauty and fashion. The sluices were opened by WILLIAM MELLISH, Esq. one of the Members for the county, who was to have been assisted by his colleague, GEORGE BYNG, Esq. had not the illness of his Lady prevented his attendance. The day was fine, and after the ceremony, the company partook of a cold collation, and adjourned to dinner at Freemason's Tavern. The whole was conducted with propriety and liberality. RALPH WALKER, Esq. and JOHN MILLINGTON, Esq. are the Engineers who conduct this grand and highly important concern.

The *Morning Post* takes the Ministers' instructions, and the Ministers, in return, take the *Morning Post*'s ADVICE! What a charming interchange of kind offices!—It was the *Post* that recommended the present Prosecutions against the Independent Journals.—If we could prevail on ourselves to panegyrise every act of the Ministers, to write bad English daily, and to dismiss our wives for the purpose of living with the most abandoned Prostitutes,—we perhaps might be taken into favour too.

The trial of Mrs. CLARKE and the WRIGHTS, for a conspiracy, was to have come on yesterday, but, at the request of the ATTORNEY GENERAL, it was postponed till to-morrow. The Dukes of YORK and KENT are subpœnaed.

A most remarkable proof of the state of political degradation in which BONAPARTE has plunged the people of France, has lately been afforded, and deserves to be generally known. The Historical Work written by the late Mr. Fox has recently been translated into the French language; but the translator, either by order of the Powers that be, or a conviction of his own, has been most careful to expunge, even at the expence of the sense, every passage calculated to excite sentiments in favour of liberty! We have thus the true character of the French Government, drawn by themselves, and placed beyond dispute.

THEATRICAL EXAMINER.

No. 60.

LYCEUM.

The comedy of the *Merry Wives of Windsor* was performed here on Monday, if performance it can be called, when there is no living actor who can represent *Falstaff*. Mr. THOMAS WARTON calls this play "the most complete specimen of SHAKSPEARE's comic powers;" and if by *complete* he means the most various in humour, and by *comic power* the power of exciting laughter, he is right: but in specimens of pure comedy it must yield both to *Much ado about Nothing* and to the *First Part of Henry IV.* the former of which excels it in wit, and the latter in wit and humour. Some of the most amusing scenes in the *Merry Wives* are mere farce; though it must be confessed that if some farce is omitted in the representation, much is also foisted in, as in the speeches of *Dr. Caius*, and the fisticuffs between the parson and the doctor. *Slender* is an excellent piece of quiet humour, and there is much characteristic discrimination between the Welchman and Frenchman, the former of whom reproves jealousy as a want of wisdom, while the latter dismisses it with an oath as a bad fashion not to be found in France. SHAKSPEARE made the most of the few Frenchmen who had then appeared in England. Of the Welch and their quaint simplicity he seems to have made the same use as the modern dramatists of their Irishmen.—But this is a melancholy comparison.—It is a pity he was unable to give us any more pictures of national character; but Irishmen, in ELIZABETH's time, were known only as a barbarous people impatient of that yoke, which we have been grinding into their necks ever since; and the Scotch, having a king and court of their own, had not yet sent out their fortune-hunters, to get a bad character in England.* Upon the whole, there are no scenes in the drama before us, at all comparable to the exquisite humour of *Falstaff's* detection in *King Henry the 4th*, and to the alternate mock-performance of the King in the same play by the Knight and the young Prince. *Falstaff* himself is no longer that felicitous compound of the despicable and the diverting, which made even the splenetic SAMUEL JOHNSON burst out into an apostrophe of admiration. JOHNSON thinks so too, and suggests as a probable reason, that the poet "having in the former plays completed his own idea, seems not to have been able to give him all his former power of entertainment." Perhaps the simple cause is, that it was necessary to *Falstaff's* character to *enjoy* and not to be *seeking* after enjoyment.

Mr. PALMER's representation of the Knight, to say the best of it, is bearable. He carries himself well, and grunts complacently enough in his anticipations of success; but he wanted the humoursome vagaries, the quips, and the cranks of the unwieldy reprobate. Even the best touches of a modern *Falstaff* are not original. There are parts of various performances, which being first conceived by some true genius, become so many heir-looms to the stage, and are handed down from *Macbeth* to *Macbeth* and from *Falstaff* to *Falstaff*, only to render poor actors tolerable, and to make us regret the noble originals, the GARRICKS and the HENDERSONS, whose precious remnants they put on.

☞

* The Scotch, always a brave and thinking people, seemed to have obtained their present hypocritical character from the political circumstance of the Union of the two Crowns. When JAMES came to take possession of the English throne, he made London, of course, the metropolis of the Scotch as well as English, and Scotch adventurers have ever since looked to it as their promised land. But were Edinburgh, instead of London, the British capital and the seat of the court, adventurers from England would flock thither and gain precisely the same character as the Scotch have acquired here. The most acrimonious of their enemies cannot deny that they make excellent men of business, and what is more, that they have furnished, for some time past, our best military officers.

THEATRICAL CORRESPONDENCE.

MR. EDITOR,

I shall premise, that I am a decided reprobator of the conduct of the Managers of the Theatre, in the sending in the infamous description of persons they have done, to support their cause against the public; and I am decidedly of opinion, that *general usage* and *custom*, upon which has been founded all the principles of our English jurisprudence, sanction the O. P.'s in their general opposition to the assumed authority of the Theatrical Officers: but I am as decidedly of opinion, that the conduct of the O. P.'s has, of late, been so convulsively riotous, that any individual taken "*in delicto*," may, and deserves to be, indicted as a rioter. I went last evening to the Theatre, for the first time since its opening. I need not describe the

general confusion, and the "*Vox* (populi) *et preterea nihil.*" So far so good! But the various *rushes* towards the orchestra, and the *sham fights*, were truly alarming and dreadful; and I am sure there was not a spectator of common feeling but who was agitated with that terror, for the fate of others at least, which is required by the common law of the land to constitute a riot. It is not my wish to bring the offenders *to the lash of the law*, for I have no doubt but the offence has been more the result of over-exhilirated animal spirit than intention of wrong: but I could wish, through the medium of your patriotic publication, to convey to the O. P.'s this caution, this "guarded caution," that however usage and custom may authorise the vocal or instrumental expression of their disapprobation, every law-book and authority most pointedly decides, that personal violence is and ever has been the proper subject of heavy penalties. The excuse of many would be, "It is fun;" but various others, *not fond of such fun*, may be overwhelmed in the scuffle: let them remember the Fable of the Frogs, and that "what may be fun to them may be death to others."

It is the sincere wish of my heart, that the O. P.'s may succeed against *the insolence of office;* and from that anxiety alone have I made the foregoing observations: in that anxiety of feeling, I beg most earnestly to entreat of the O. P.'s to avoid all violent acts, of every description, whether childishly playful or indignantly irascible, as they only tend to injure the cause they pretend to espouse, by affording prey to the cat-like paws of their crouching adversaries. Let them but persevere with a steady decorum, in the prescriptive rights of their opposition, and both *Law* and *Justice* must ultimately pronounce those rights unalterable.—I am, Sir, with every respect, yours, &c.

7th Dec. 1800. THISMIAMES.

FINE ARTS.

ROYAL ACADEMY.

Last week Mr. CARLISLE delivered his third and fourth Osteological Lectures to the Royal Academicians and Students. In the third, he described the bones of the head, neck, spine, scapula, thorax, ribs and pelvis. In elucidating those of the head, he displayed a plaister skull, which he said was a cast from the cranium of the great RAFFAELLE. He contrasted it with an Englishman's, to shew its superior and remarkable rotundity and symmetry, and the perpendicular and Grecian direction of its facial bones. He said that the principal motions of the skeleton were at the neck and loins, and that nature has wisely ordained the body to bend in old age, as it requires less strength to support it in that than in an erect position. He finished by describing the appearances and actions of some of the bones which are conspicuous through the muscles in the living figure. In the fourth, he described the cylindrical bones and joints; the names, shapes, and motions of the bones of the arm, hand, and lower limbs, and exemplified the description on a living figure, which could not be more chilled with the atmosphere of an English December, than the minds of the auditory were with the cold correctness of the Professor. He said that the Greeks frequently exaggerated the muscle called Transversalis, seated on the hip, to give it an appearance of greater manliness, as they imagined it to be the chief generative organ; and finished by some general remarks on Myology, or the muscular system. After the Lecture, which was certainly the best which the Professor has delivered, he said that he was introduced to the Academy as a Student, by a letter from Sir J. REYNOLDS, but he remained there only *two evenings*. This was a truly *novel* and *efficacious* piece of information to convince the Students how well qualified he was for their *tasteful* Professor of Anatomy. Mr. BELL's *Anatomy of Expression in Painting*, full of elegant engravings by FREEMAN, from most spirited designs by Mr. BELL, are mere nothings to it. R. H.

COUNT ZENOBIO.

TO THE EDITOR OF THE EXAMINER.

DEAR SIR,

If you have room enough, pray notice in your next Publication the puerile rhapsodical Epistles of ZENOBIO. This man no doubt wishes to write himself into place, yet without merit sufficient to succeed even with our PRESENT Administration. In his Letter 4th (published in the *Morning Chronicle* to-day) he denies BONAPARTE the credit of superior abilities—asserts him to be no more than "a successful Chief of Banditti;" and by way of giving a specimen of superlative nonsense, he tells the Venetians that "Every one of his naval expeditions was absurd, and failed; but if ever any of them succeeded, it was for the most insignificant object!!!" Is not this man a Member of our Court of Common Council? If not too contemptible, do caution him against wasting more paper; and you will oblige, your's, &c.

Friday Morning. ECONOMY.

MARRIAGE, A PUNISHABLE OFFENCE.

SIR, *Edinburgh, Nov.* 23.

I observed your letter signed BENEDICT, and thought that probably some man of military experience would have answered it; your insertion however in No. 99, "it is quite clear that no officer has the least military right or pretence whatever to controul his men on such occasions," shews the same degree of ignorance in military matters as did your mentioning the punishment of a soldier on board ship without a court martial: it is well known that those who go on board ships of war are liable to the discipline of the said ships, and those who enter into the army are also subject to army discipline, ignorance of which, as C. J. HALE observes, is no excuse, and although LITTLETON says, "malum usus abolendum est," yet it remains to be proved whether a soldier marrying is prejudicial or beneficial to the service? It appears to me to be decidedly very injurious to the service in many respects; amongst the rest, take notice, there is no allowance for them by quarters or otherwise from Government, and I should therefore imagine they are civilly incapacitated, as I believe no man is allowed to marry who has not some visible means of subsistence: now, as no soldier is permitted to work, and there is only quarters in the proportion of one to twelve, pray let me know if a soldier on a shilling a day ought to marry? Secondly, allowing the wife brings a competency, still if every soldier married who chose, it would be impossible for them all to remain in barracks, consequently the Commanding Officer must take a very great risk on himself, and allow the men to lodge

in town, or the men and their wives must be separated: Thirdly, from time immemorial, or as the law sayeth, "to the which the memory of man runneth not to the contrary," it has been customary to ask leave of their Commanding Officer, and it is expressly forbidden by the standing orders of every regiment; of which, that they may not plead ignorance, note, that both the standing orders and the articles of war must be publicly read to the regiment once a month; you will further observe, that I have known many instances of desertion when ordered for service, because their wives could not accompany them.

I shall say no more on the subject, but that it is (and I speak from experience) in many instances highly prejudicial to good order; you have custom and common sense to authorize your putting an immediate stop to such irregularities.

I trust, as you have hitherto shown yourself an impartial EXAMINER, that you will invesigate this matter more closely, when I make no doubt you will concur in opinion with,—Your constant reader, JUSTIPHILOS.

P. S.—You made some ill-judged remarks on the members of a court that tried a Mr. WHITE:—you should have reflected that the said court only tried him for a breach of military duty. In all courts, civil or military, "whatever is given in evidence must be to the very fact on one side or the other; no evidence ought to be allowed to any other point, nor should any collateral matter be admitted, unless conclusive or introductory to the main point;" and again, "It belongs to these courts to take cognizance of such things as cannot be determined by the common law of the land *."

If Mr. WHITE transgressed against the civil law, it has still power over him, he having only been tried for military offences.

I think you a pleasant, though severe writer, and admire your talents; I trust, however, you will not insert any military matters without better information:—

Non omnia possumus omnes.—VIRGIL†.

* How will this maxim apply to a Court-Martial's interference in case of marriage? Our Correspondent is first angry that Military Officers are not allowed to be arbiters in a civil case, and the next moment he says they have nothing to do with it. This Mr. White, who, in his intoxication, ordered out his soldiers against a few townsmen with whom he had disputed, a case, in which one would imagine it would be difficult to separate the military from the civil offence, was simply reprimanded, while the poor common soldier, for obeying the laws of nature and society, received a 100 lashes.—*Edit.*

† JUSTIPHILOS is severe upon me; but when I said "it was quite clear that no officer had the least military right or pretence whatever to controul his men on such occassons," perhaps I had means of ascertaining the truth of this assertion, of which my decisive Correspondent may not be aware. Of "the punishment of a soldier on board ship without a Court-Martial," I never said a word to the best of my recollection; and as to the prudence of a man's marrying upon a shilling a day, it is, in the first place, of no point to the military part of the question, and in the second, JUSTIPHILOS seems to have forgotten that the man was a *militia* soldier, and very likely [illegible] made of his own. This he should have recollected also, [illegible] talks of desertion on being ordered to *foreign service*. [illegible] Correspondent may, I think, very reasonably venture to [illegible] well known fact, that "those who enter the army [illegible] army discipline." Who denies this truism? [illegible], not whether a soldier is subject to army discipline, but whether army discipline subjects a soldier to a [illegible] in case of marrying without permission. I am not disposed to deny that Colonels of regiments may have exacted an obedience from their men in all civil as well as military matters; but I am still very much disposed to deny, that they have the least right to do so; and if JUSTIPHILOS is anxious to decide upon the question, he must do something more than bring assertion against assertion; he must produce, if he can, a General Order from the War Office, constituting marriage a punishable military offence, and authorizing the Colonels to punish it accordingly.—*Edit.*

CITY.

COURT OF COMMON COUNCIL.

On Tuesday the Court met pursuant to summons. After the new Lord Mayor had addressed the Court, and pledged his aid in supporting the rights of the Citizens of London, a Motion of Thanks to the late Mayor, for having conducted himself as "a good and upright man," was proposed and carried, though Mr. WAITHMAN thought he was not entitled to such vote, he having twice refused to call a Common Council. As for his "hospitality," said Mr. Waithman, with his cold beef dinner turned into a sumptuous banquet, it was merely buying a Vote of Thanks, and was therefore an insult—(*Order! Order!*)—Mr W. repeated his assertion, and added, that the late Lord Mayor had been well paid for his "hospitality," by being created a Baronet—an honour which would never have been conferred upon him, had he opposed the views of Ministers, and acted only for the rights of his fellow-citizens.

BRITISH EXPEDITIONS.

Mr. WAITHMAN commenced his speech by alluding to the importance of his subject, and the necessity of the City's exercising their just right of canvassing every transaction in which the welfare of the State was implicated. Our military expeditions, he said, had for a long time turned out both unfortunate and disgraceful. Four great armies had been of late sent from our shores only to swell the sum of our sorrows and our woe, each more fatal than the former. In the reign of George II. when the Citizens went up with their Address, complaining of a military failure, his Majesty expressed his satisfaction at their conduct in taking such an interest in public affairs. The very words used in that Address he (Mr. W.) took for an Address he proposed on the Helder *disgrace*; but his Address was then negatived, on the ground that it was an insult to the Throne. On the Cintra *disgrace* he again used those very words, and how was the City treated by the Court? Why, they were haughtily told that the interposition of the City of London was not wanted in a matter in which the honour of the British arms was implicated! Sir John Moore was then sent into Spain, and induced to act against his better judgment; without concert, without aid; without hope; and he was compelled to fly from the superior foe. Sir A. Wellesley was then to recover Spain; he pushed into the heart of the country, with a plentiful supply of courage and a deplorable want of judgment: he gained the "victory" of Talavera, and then wrote home, "We could extricate ourselves from this difficult situation only by great *celerity of movement*, to which the troops were unequal, as they had not had the allowance of provisions for several days." This "victory," was followed by leaving our sick and wounded in the hands of the enemy; and to prove that it was a *complete* victory, Sir Arthur had recourse to that "celerity of movement," vulgarly termed running away! So much for that great General, and for the recovery of Spain.—Now for the Walcheren *disgrace*, that climax of disaster and folly. An immense armament left our shores, and the Ministerial advocates assured us that the object could not fail of attainment. It consisted of 100,000 Britons, 38,000 of whom were soldiers. France at this time had about 9000 men to oppose this vast force; and even after the delay in taking Flushing, the enemy had not more than 18,000 men. Flushing might have been taken with 5000 men; and if the ships at Antwerp were the object, to what could be attributed the delay in attacking them? But my Lord Chatham, of whom no one had ever heard as a soldier,

must have the command forsooth, because he was a Cabinet Minister, for that was the only reason he had ever heard for such an extraordinary appointment. The gallant Sir Richard Strachan and Lord Chatham seemed to entertain very different ideas as to the success of the Expedition: he offered his most unqualified support to the army, which support was declined by his Lordship. What was the catastrophe? The object for which this splendid and costly armament had been sent forth was given up, and our brave countrymen were doomed to linger among the pestilential damps of Walcheren, until Ministers could make up their minds how they should proceed. Was there a man bold enough to say, that here was not sufficient cause for demanding inquiry from beginning to end? Eight millions of money, and many thousands of men, had this fright ful expedition cost us. Are the people of England patiently to endure this in silence? If they can,—if they calmly bear this wasteful and profligate expenditure of treasure and blood, they are already fit only for slavery. Ministers seemed to think nothing of the matter; they mentioned nothing about investigation; with them all seemed perfectly proper and praiseworthy. But was this Court to acquiese in the meanness and baseness of forbearance, for fear of being again told that their interference was impertinent and unnecessary? He hoped not; he trusted they would do their duty to their Country and their King, and that they were not so broken down in spirit as to become callous and indifferent to their fate. It might be said that Parliament would see to this business. It was indeed their especial province; but sorry was he to say, that he looked with small hopes to Parliamentary interference; for, from the Helder disgrace to the Walcheren disgrace, what had Parliament done? Why, negatived every motion for inquiry.—Under the present system, he had no confidence in Parliament: the Members seemed only anxious to shield corruption. It is true, every man talks of defending the Constitution; but this was not to be done by eating and drinking, and by courtly votes and resolutions. Supporting the *Constitution*, in the opinions of many, was supporting the Administration,—a very different thing in most cases. The country, too, was said to flourish.—Jobbers and contractors certainly did; but look to our Poor and the Workhouses. The Constitution had this advantage, that it gave the Public a right to check abuses and bad Ministers, who abused the King's name, wasted the resources, and endangered the liberties of the people. It had indeed been said, that there was a settled design to degrade all public men. God forbid: but public men should be steady to their avowed principles. He had seen the Income Tax opposed and increased by the same public men; he had seen them coalesce for private ends; he had seen Lord Grey and others call aloud for Reform, and he now heard them opposing it with the term of "canting for reformation." This was the effect of the Borough-mongering system, which was pregnant with evils to the nation. For his part, all he wanted was to see Ministers uniting private virtue with public talent. Very different then would they be to those men, who had lately as much disgraced themselves by their public transactions as by their private intrigues and their mean, shabby, and contemptible devices to betray and cheat each other. Let the Corporation address the Throne on the awful situation into which Ministers had thrown the country, and we had a right to expect that his Majesty would reply as George the Second did, and order an inquiry accordingly.—Mr. WAITHMAN then moved in substance,—

"That an humble and dutiful Address and Petition be presented to his Majesty, upon the present deplorable situation of Public Affairs;—

"Humbly representing to his Majesty our grief and indignation at the late unwise, ill-digested, ill-conducted, and calamitous Expeditions, by which the blood and treasure of the realm have been scandalously wasted, the character of our gallant Army exposed, and its numbers reduced by pestilence, famine, and disease, more than by the sword, without accomplishing any national object.

"That, while the People have been suffering under the pressure of accumulated evils, his Majesty's confidential Advisers, regardless alike of the sufferings of the People and of the honour of their Sovereign, and insensible or indifferent to the dangers and impending fate of the Country, have been engaged in the most contemptible squabbles, intrigues, and cabals that ever disgraced the Councils of any nation; and as disreputable to his Majesty's Government as ruinous and dishonourable to the country.

"That while we forbear to enumerate a long train of internal grievances, we cannot but attribute such a series of failures and calamities to the Corruptions and Abuses of the State, and the consequent want of a constitutional parliamentary controul over the public expenditure and the Ministers of the Crown, whereby the responsibility of Ministers appears to exist only in name.

"Humbly praying that his Majesty will be graciously pleased to assure his loyal and affectionate people, that the object to which their wishes are so anxiously directed is neither to be abandoned or eluded; and that his Majesty will be pleased to institute a rigid, impartial, and general inquiry into these great national misfortunes; into the plans and instructions upon which those Expeditions were undertaken; and into the conduct and capacity of the Commanders to whom they were entrusted. And in order the more effectually to prosecute these inquiries, to beseech his Majesty, without delay, to convene his Parliament."

Sir WM. CURTIS could not agree with the bold assertions of the last speaker. He really thought the Walcheren Expedition a very good one, for Walcheren might be of more use than Malta or Gibraltar. He knew the whole plan, and it was not safe to proceed to Antwerp without first taking Flushing. He certainly thought that the Expedition had not been well managed, but was quite sure that Lord Chatham was as anxious for inquiry as any one. It was the divisions among the Ministers that had hurt the Expedition as well as some individuals he could mention. He could say more on that subject than he should then say. He too thought inquiry necessary; but Parliament was to meet in January, and there could be no doubt but they would enter upon a serious investigation of the whole business. Parliament, in his opinion, was the organ of the People, and therefore most proper to take the matter up. If Parliament did not take it up, he would be foremost in calling for inquiry, and would then join the worthy Gentleman who brought forward this motion in endeavouring to obtain such investigation. It was at present, however, unnecessary, and he should therefore now move the previous question; which Mr. DIXON seconded.

Mr. Alderman CHRISTOPHER SMITH conceived, that as Parliament was so quickly to be assembled, the interference of the Corporation of London was premature. If Parliament did not perform its duty, by taking up the consideration of our late Expeditions, a course of proceeding which he was sure that body would adopt, then he pledged himself to join every man in that Court in calling upon the Crown for that inquiry which would lead to a redress of their grievances.

Mr. GRIFFITHS was free to acknowledge, that after the experience of the last eighteen years, he had but little confidence in the controuling influence of Parliament. When, therefore, the Citizens of London had a right to exercise, and there existed an important opportunity for interfering with their solicitations, he was of opinion, that the line of duty was to exert that right promptly, and not to depend upon the honesty or the views of any other body, however strongly it was proved that such an assembly ought to act upon similar motives. Enough had been shewn to convince the country that the House of Commons was not the most active supporter of the people's rights. Whatever were its faults, he still confided in the practical attention of the Corporation of London to the country's wishes. In doing so, it only fulfilled a duty to a willing and patriotic people—a people whose sacrifices to the wants of the state had reduced a great portion of them to absolute want. (*Hear! hear!*) He made no idle statement; he had in his hand the Order of the Commissioners of the Land Tax to the City of London, which was on the morrow to be forwarded to their various collectors, peremptorily commanding them to levy a distress upon every person deficient in War Taxes to the

amount of ten pounds.—(*Cries of hear! hear!*)—To a people so circumstanced, and liable to be deprived before that Court met again, of the little covering which an inclement season demands, was not something due in the shape of inquiry for the millions that had been wasted, not alone in unprofitable, but in disastrous Expeditions? Upon such grounds he would give his support to the original motion.

Mr. KEMBLE only opposed the expediency of the motion; if Parliament did not take it up, he pledged himself to be most forward in impressing upon that Court the propriety of their insisting upon investigation.

Mr. Alderman WOOD expressed his hope that the Court would not be led aside from the object of the original motion, by those arguments which had been urged of this not being a proper time to bring it forward, because Parliament was so soon to meet. He was of opinion that no time could be more proper than the present for bringing forward such a motion as that of his worthy Friend on the floor. The Expedition to the Scheldt was one of the greatest importance that had ever been sent from this country: the greatest responsibility was, of course, attached to it. It had totally failed, and nothing could be more evident than the necessity of an inquiry into the cause of such failure.

Mr. Alderman SCHOLEY said, it seemed to be universally agreed that an inquiry was necessary; but many were of opinion, that as Parliament was so soon to meet, it would be better to wait till it should be seen whether they would immediately call for an inquiry. For his part, he could have no doubt but they would do so, and he would, therefore, vote for the previous question.

Mr. Alderman GOODBEHERE animadverted upon the system to which several members of that Court had pertinaciously adhered for the last eighteen years. They were then inoculated with a Ministerial mania, which no change of events since could eradicate. From 1793, at which period they unnecessarily taxed the city by an increased bounty to seamen, for no other purpose but to chime in with the war whoop of the day, they continued to be the vassals of every set of men, held by no other connexion but that their patrons were in office. (*Hear! hear!*) No sooner did political events deprive these patrons of official existence, the acknowledgment and support of these very Members were transferred to successors, although the tenure of their office was upon grounds of policy which their previous favourites contradicted and opposed. Many were the illustrations of such conduct. They were visible in the discussions upon the Test and Corporation Oaths—a question upon which their love of the Court politics made these very men surrender their own private opinions and attachments. They were above all manifested in their conduct upon the Catholic Emancipation question, when they even surrendered their darling Pitt, the avowed, the determined supporter of the claims of the Irish Catholics, and without regard to the object of their adoration, transferred the same sincerity, the same loyalty to his successors, who now hold the reins of Government with the very pledge of treating such claims with disregard and denial! (*Hear! hear!*) But forsooth, the interference of the people appears unnecessary. Parliament in it's wisdom will provide for every popular and national want! In it's hands are safely committed the honour and the wishes of the country! The experience of the past has convinced the people that there exists in that body an inquisitive spirit to detect abuses and to punish public delinquents! The activity of that feeling is not a matter of doubt, it has been proved to an attentive and admiring country in the discussion upon the Duke of York, and in the degrading bargains of Lords Castlereagh and Clancarty! (*Cries of hear! hear!*) It was true, that the prerogative of Royalty was a just right; it was equally true, that the Aristocracy of the Country had their movements all regulated by consitutional limitations. With their just and proper exercise he never wished to interfere; but he begged the Court to recollect, that the people of England had also their rights originally inherent and constitutionally recognized. The most important of those, was the right to petition—to insist upon Inquiry into the disposal of that treasure and that blood, the controul of which they committed to the care of the confidential Servants of the Crown; and for which such servants ought and are responsible to those who, by their industry and labour, supply the means of public expenditure. (*Hear! hear!*)—The City of London had a debt to discharge to society, it was expected from its citizens to give, upon important questions, a fair tone to every part of the empire. That the present subject was one of disastrous magnitude, there was not a man hardy enough to deny: the only benefit which could result from such a cause, was a determined feeling upon the part of the people to express their opinions upon the calamity, and to demand such an investigation as would lead to the conviction and punishment of the delinquents.

Mr. Sheriff WOOD trusted that the great duty that Corporation owed the country would not be overlooked at times of such awful importance. It was idle to tell the country that there was no necessity of the subject interfering because Parliament was speedily to be assembled, and that, consequently (strange consequence!) they would institute inquiry. He begged boldly to say, that he had a distrust of Parliament. The importance, the disasters, and the degradation, of late political events, no man who had spoken had ventured to question. Why then was that right, so universally allowed, and so proper to be exercised, to remain unused by that Corporation? Was it that the response which the present Ministers advised their Sovereign to give them on the Convention of Cintra, an unmerited rebuke, that therefore they had not now the firmness to exercise, a recognized right, namely, to insist upon inquiry?—(*Hear! hear!*)

Mr. Alderman SCHOLEY and Sir CHARLES PRICE supported the previous question, upon the ground that Parliament would institute the necessary inquiries; at the same time pledging themselves to call for investigation, should Parliament neglect such a positive duty.

Alderman HUNTER followed on the same same side; and exhorted the public, whom he saw in such numbers below the Bar, not to believe that even if the motion was carried in that Court, it therefore was the deliberate conviction of the Corporation of London.—(*Cries of Order! Order!*)

Mr. JACKS professed himself a friend to rigid inquiry, but thought Parliament was the proper place where such a feeling should originate. He considered it indecent and indecorous to go up to the Throne with the proposed Address, trenching, as it were, upon the King's Prerogative, just after that Court had addressed their Sovereign with all the feelings of personal respect and gratitude.

Mr. Deputy PHILIPS considered the recommendation of the opposers of the motion as a renewal of an old device, which, for the last eighteen years, the sycophants of the Court in that Assembly—those men who came there to propose or oppose any measure at the mandate of the Minister—(*Cries of hear! hear! and order! order!*)—There were men who talked loudly of the prosperity of the country. Where was that prosperity to be traced? Was it in the extensive and populous workhouses of the country? Was it to be proved from the incessant applications of the tax-gatherer, who was scarce ever from their doors? Yes; their prosperity was correspondent with their boasted deliverance of Europe, which, when first introduced, found this country only subject to a debt of 200 millions, and has since entailed upon it, as a monument of our security, the intolerable incumbrance of 500 millions!!

Mr. Alderman ATKINS felt that inquiry was due to the public, and that it was the undoubted right of that Court to demand it. Still it was duly to weigh the discreet exercise of that right. In his opinion that discretion should induce them to suspend their interference, until they ascertained the conduct of their Parliamentary Representatives upon that occasion. Upon that view he should give his vote for the previous question.

Mr. Alderman COMBE deprecated the idea of declining to adopt the proposed Resolution of his worthy Friend upon the floor, from any idea that Parliament would take up the business alluded to, and institute the investigation required. For

himself he would say, that he could not trust Parliament upon the subject. He recollected too many instances of a similar nature, where Parliament neglected, or rather refused, to do its duty—to justify him in reposing that trust. The affairs of Dunkirk, of the Helder, of Cintra—*(and of Constantinople, observed Mr. S. Dixon.)*—True, said the worthy Alderman, and of Copenhagen also, but still more of Spain, were fresh in the memory of the public, and in each of these Parliament declined doing its duty,—stifled and suppressed investigation. Why then should confidence in such a Parliament impede the proceedings of that Court? Parliament might inquire in consequence of the Resolution of that Court, and without that Resolution it might not—Nay, he thought that the rejection of the proposed Resolution would serve to encourage Ministers, who were always willing to screen their partisans, to resist inquiry upon the scandalous transaction alluded to, and therefore he would support the original motion. It was observed, that this was not the proper time for the motion—certainly that observation was in a great degree just, for some weeks back would have been a much more proper time. Indeed this Resolution ought to have been brought forward on the 3d or 4th of September last—the moment after the first intelligence was received of the failure of the unfortunate Expedition. But even now it was not too late to shew to the Parliament how the People felt upon such an important subject, and that feeling could not be too strongly expressed. If it were not so expressed, it was not likely to be unavailing. For he was happy to witness the arrival of the day which he had so often wished, when the feeling of the People had that due weight which it was always entitled to claim. The People of England were no longer to be trifled with.

Mr. WAITHMAN replied. He contended that all the observations which the Court had heard from the advocates for the previous question, bore in favour of his motion. The Bill of Rights, which Gentlemen ought to read every day, was, in his opinion, a dead letter, if his motion were to be withstood upon the grounds stated. For what was the right of petition, if the people to whom that right belonged, were not at liberty to inform his Majesty of the actual state of the country; if they were precluded from stating to him that he was surrounded by improper persons, that he was acting under injudicious Counsellors? But, according to the fastidious delicacy of some Gentlemen, his Majesty ought not to be informed that he was connected with caballers and prize-fighters. He submitted to the common sense of the Court and the Public, whether such a doctrine was to be endured?—neither the friends of the King nor of the People, could maintain such a doctrine, and he trusted that it would never be admitted by the country. As to the time when this proposition was brought forward, he was ready to admit that a better time might have been chosen; but this was to be accounted for on the grounds he had stated in his objections to the Jubilee. He described that measure as a foul trick on the part of Ministers to drown the contemplation of their misconduct, and they had succeeded in part; that success, however, was but partial and short-lived. He had pledged himself to bring this business under consideration, and he had redeemed his pledge.

Some observations, which were not distinctly heard, in consequence of a considerable noise below the bar, having been made, that Mr. Jacks had acted upon the Jubilee as the tool of Administration,

Mr. JACKS rose to vindicate himself, and spoke to the following effect:—"At no period of my life have I had a correspondence with any Member of Administration, nor have I ever had a political conversation with any persom whom I know or suspected to be in the immediate service of this, the last, or any former Administration. I can conscientiously declare, that I am as independent of the Administration as the Worthy Member (Mr. Waithman), and that my only motive in seeking to preserve the rights and prerogative of the Crown, was the same as at a former period, when I deemed it right to advocate the liberties of the People."

The question was then called for, and the Court divided. The numbers were as follow:—

For the previous question—Aldermen, 9—Tellers, 2—Commoners, 65—76.—Against the previous question—Lord Mayor, 1—Aldermen, 4—Commoners, 72—77—Majority, 1.

A division took place on the Address:—In favour of it, the Lord Mayor, 1—Aldermen, 4—Commoners, 61—Total 66.—Against, Aldermen, 9—Commoners, 54—Total, 63.—Majority, 3.

It was resolved to appoint a Committee, consisting of all the Aldermen present, and a Commoner out of each Ward, to prepare an Address to his Majesty. Who, accordingly, retired; and being returned, presented a Draft of an Address, which was read and agreed to, and ordered to be presented to his Majesty.

LAW.

COURT OF KING's BENCH.

Monday, Dec. 4.

WATTS v. FERMOR.

This was an action brought by the plaintiff, who is a livery stable-keeper, against the defendant, who is a man of large fortune, for damages sustained by the plaintiff, who, in consequence of the negligence of the defendant's coachman, had his gig upset, by which accident his vehicle and harness were broken, and he himself was thrown from it, and was consequently confined to a sick bed for seven or eight weeks, when he was ordered by Mr. Heaviside, the surgeon, to visit Brighton, for two weeks more, for the complete restoration of his health; the whole damage he sustained being therefore this confinement and inconvenience, and the loss he incurred from not being able to attend his business during all that time. The accident happened in May last, as both parties were returning to town from Epsom races, on the hill at the entrance of Wimbledon Common, the plaintiff driving a friend in his gig, and the defendant being driven by his coachman in a barouche and four.—Verdict for plaintiff—Damages 400l.

Tuesday, Dec. 5.

HARRISON v. KING.

The plaintiff is an Attorney, and the defendant a notorious Money Lender. The action was brought to recover damages for wilfully and maliciously causing him to be apprehended and carried to Bow-street, on a charge of forging an indorsement on a Bill of Exchange; and for wilfully and maliciously preferring an indictment against him for a fraud, which the Grand Jury threw out; and also for a libel upon his character in the *British Guardian* Newspaper, of which King is the owner, and for maliciously taking him in execution for 600l. and upwards, when no money was due from the plaintiff to the defendant.—The Jury found a verdict for the Plaintiff, with 1500l. damages, to the great satisfaction of every honest man.

Thursday, Dec. 7.

THE KING v. THE DUKE OF GORDON.

This was a prosecution against Alexander Duke of Gordon (who is nearly 70 years of age) for an assault on Sarah Waite, wife of Thomas Waite, charging the aged Duke with an intent to violate the honour of the said female. It appeared that Sarah Waite was a servant to Lady Mary Stanley, whose house in Norfolk-street had been let to the Duke of Gordon. Sarah Waite remained in the house to take care of her mistress's furniture. On the 23d of March, 1808, the Duke dining alone, he sent for this woman, and entering into conversation, prevailed on her to drink a glass of wine with him. A few evenings after, he sent for her again, when he put a shilling (by mistake, the Counsel supposed, for a guinea) into her hand to buy a gown, and then attempted to take improper freedoms with her, which she resented, and the old Duke was thrown down in the struggle. For this conduct an indictment was preferred.

When the prosecutrix was first called, she was not to be found.—The ATTORNEY GENERAL observed, that the whole was a wicked conspiracy against the Duke; and had she appeared, he would have proved that she was a most abandoned creature, who had married a man whose wife she knew to

be alive.—The Jury returned a verdict of *Not Guilty*; and shortly after, it was announced that the prosecutrix was in attendance. The ATTORNEY GENERAL expressed his readiness to proceed; but Lord ELLENBOROUGH would not consent that the Court should be trifled with, and its forms disregarded.

Friday, Dec. 8.

TAUNTON *v.* WYBORNE.

This was an action for damages brought by the plaintiff against the defendant, for criminal conversation with the wife of the former.—The plaintiff, Mr. Taunton, is an Attorney of eminence, resident in Essex-street, Strand; and the defendant, Wyborne, is a Barrister, who also lives in the same street, and is a married man.—The plaintiff laid his damages at 20,000*l.*—It appeared upon evidence, that the plaintiff had been married to Mrs. Taunton about four years, and had several children by her. They had lived together with the greatest harmony until the period of the unhappy connexion which Mrs. Taunton had formed with the defendant.—In order to carry on the amour, a room had been hired in Boswell-court, where it was proved the defendant and Mrs. Taunton used to meet each other several times in the week, under feigned names.—The proofs of the connexion were inferential, but satisfactory.

The defence set up was of a most extraordinary, and, as it appeared, a most abominable nature. It was asserted that Mrs. Taunton not only exhibited great looseness of conduct at Broadstairs, but that Mr. Taunton was a man of the grossest habits, who had used his wife very ill, and had even slept with his wife and her sister (a Mrs. Brees) in the same bed. Nothing of the sort was, however, proved; Mrs. Brees had merely slept in her cloaths on a chair in the room, when some friends of Mr. Taunton had occupied the beds.

Lord ELLENBOROUGH spoke with much severity of the defendant and his defence, which he thought greatly aggravated his offence; and the Jury returned a verdict for the plaintiff—Damages, *Eight Thousand Pounds*.

COURT OF COMMON PLEAS, WESTMINSTER.

Tuesday, Dec. 5.

CLIFFORD *v.* BRANDON.

About a quarter past ten o'clock Sir JAMES MANSFIELD, the Chief Justice, appeared on the Bench, when the names of the Special Jury were called over; but of the number summoned only five appearing, the places of the absentees were supplied from the Common Jury.

JURY.

STEPHEN PITT, Church-street, Kensington, Esq.
EDWARD JENNINGS, Young-street, ditto, Esq.
WILLIAM DAY, Brook Green, Esq.
GEORGE SCOTT, Upper Mall, Hammersmith, Esq.
THOMAS ROGERS, York Buildings, Esq.

The above were the only five of the Special Jury.

THOMAS GREENWAY,
RICHARD NORTIN,
GEORGE READER,
JOHN SEYMOUR,
THOMAS RYAN,
WILLIAM BEST,
MARK COOK,
} Tales men from the Common Pannel.

Mr. RUNNINGTON stated, that the plaintiff had been assaulted at the public Theatre by the defendant, James Brandon; had been seized by his directions, and afterwards imprisoned; but, on going before the Magistrate, was subsequently liberated. To this the defendant had pleaded, first, the general issue, not guilty—and next, seven pleas of justification. The substance of these pleas was, that the defendant was a servant at Covent-Garden Theatre, the Proprietors of which had a licence to perform Tragedies, Operas, Plays, and Farces, and to take, and receive, reasonable sums of money for admission to the same. That the Plaintiff had made a great noise and tumult, in the Theatre, to compel the Proprietors to lower their prices of admission, which they had been compelled to advance, in consequence of the burning of the Theatre, &c. wherefore, the defendant directed Samuel Taunton to take the Plaintiff into custody; and that he took him before Mr. Read, one of the Magistrates sitting at Bow-street. The second plea of justification was similar to the first, except, that it charged the defendant with having instigated the riot. The third and fourth pleas were similar, with the addition of stating it to be the intention, not only to oppose the prices, but generally to oppose the Managers and Proprietors. The fifth, sixth, and seventh, were nearly similar. To these pleas, there was the usual replication.

Mr. Serjeant BEST said, he should immediately proceed to state the facts of his client's case, of the issue of which he had no doubt. The only question for the Jury would be, the quantum of the damage sustained by the plaintiff. The plaintiff was a gentleman of the law, and although of a very ancient and noble family, he was more distinguished by the urbanity of his manners, the splendour of his talents, and the great extent of his knowledge. The defendant held some sort of situation under the Proprietors of Covent-Garden Theatre, who it perhaps might be proper to consider as the real defendants. The plaintiff complained of having suffered a most outrageous assault, and great indignity and insult, in being carried before a Magistrate at Bow-street, by whom he was discharged, on hearing what the Jury could not have the satisfaction of hearing, Mr. Brandon's charge. The answer to this serious charge against the defendant was, by one still more serious; and such as certainly he should shew was utterly destitute of truth. There had been a riot in the Theatre, in which riot the plaintiff was most falsely accused of being concerned; and that was the reason assigned by the defendant for the assault and imprisonment of the plaintiff, or to use their own language, "of bringing him to justice." Here the Learned Serjeant observed, that before he entered minutely into the merits of the case, he felt it incumbent on himself to state, that he should feel it to be degrading to his rank and situation in society, were he to contend, that the illegal conduct of the Proprietors and Managers of the Theatre, could justify an endeavour to obtain redress by rioting, that is, by force and violence. The Proprietors might be guilty of extortion, but that he certainly admitted would not justify riot; yet, he said, such riot existing would not be an answer to this charge, and he cautioned the Jury to be guarded in the verdict, else they would regret having given it in favour of those very people who excited the riot, and now adduced it in their justification. The audience had acted throughout more within the pale of the law than the Managers. He then proceeded to observe, that the destruction of Covent-Garden Theatre must be known to them all; and that on the new Theatre being finished, the Managers had addressed the public; he then read the Address, and made some observations on the inconvenience of the middle gallery; and having read that part of the Address which mentions that the building of the Theatre cost 150,000*l.* that the Managers were under a six-fold rentage, and observes upon the increased price of every article of Theatrical consumption, he said, that if this appeal to the people was not for the purpose of obtaining their opinions, it was but mocking their good sense. He understood that the private boxes produced 12,000*l.* annually, which was more than eight per cent. for the sum expended in building the Theatre, and therefore discharged all other parts of the house from any pretext to increase their prices. The Managers had forfeited all right to public protection, both by the erection of the private boxes and enhancing the admission. Of the Committee, the Gentlemen who composed it possessed elevated situations in life, and were honourable men; but when he saw them in two or three days examine accounts of many years, the public should not be satisfied with their decision; they would not have made such an award if they had not been imposed on. It was not fit or decent that the private boxes should exist, or that when every other part of the house was overflowing, the Managers should exclude, in a national Theatre, the public from any particular part. They had obtained a patent for a Theatre for the amusement of the great body of the people. If these, how-

ever, were exclusively for the Nobility, he could look on them without indignation, but as they were occupied chiefly by those females who, not having a life-interest in their Lords, but who only possess their favour for a season, they wished to make as much as possible of them, he appealed to the decency of the country, whether they ought not to be abolished; observing, that in our national Theatres there was not a place set apart for the King, and that since no idea of exclusive property was considered to exist, it was no matter whether these boxes were occupied by the high or low, the virtuous or the vicious, they were a monopoly, and as such they would occasion riot. When Englishmen cease to resist when they have cause, they will lose that character which has preserved our liberties, resisted despotism at home, and vanquished our enemies abroad. He admitted there had existed great noises; but, he said, noise was no riot; that to constitute it such, it must be attended with circumstances of terror, force, and violence, or the fear of them. Here he defied them to prove a single lustre to have been broken, or sixpennyworth of damage done. The learned Serjeant then proceeded to state, that on the day on which the assault had been committed, Mr. Clifford had dined with a gentleman, and went in the evening, without any previous intention, to the Theatre; that there he took no part in the riot, and merely wore an O. P. in his hat; should, therefore, a riot be proved, Mr. Clifford was not a rioter; that the O. P. merely declared his disapproval of the prices, and in this there was nothing illegal, since by their appeal to the public the Managers invited the people to give their opinion; he allowed, that in some instances, wearing the badge of a party would constitute a rioter, where previous concert could be proved; but here, whatever others might have meant, Mr. Clifford neither countenanced nor encouraged riot, but, on the contrary, interfered to prevent it; riot, like treason, he said, required concert, and, in law, without concert, mere noise does not amount to riot; yet in this noise Mr. Clifford could not be proved to join; if he did not speak to any one, he could not be proved to be a rioter; yet, if he was, he could only be taken *flagranti delicto*, without a warrant; but Mr. Brandon, who was not even a constable, when the people had separated, after Mr. Clifford had left the house, and according to law could not be apprehended without a warrant, had seized him; and here he observed, that had Mr. Clifford been of an irrascible temper, and to have resisted by force this outrage, however fatal might have been the consequence, if even the spilling of blood had followed, that blood would have been at the door of Mr. Brandon and his employers. The play was over; the curtain had dropped; Mr. Clifford was out of the Pit, and in the very act of peaceably quitting the house, when the defendant calls out, "that's Clifford, take him immediately."—"Why" says Taunton, "he has been doing nothing, he has been peaceable all the night?"—"Never mind that; damn your eyes take him," was the reply and confirming order of the defendant. What offence Mr. Clifford could have given to the Proprietors, the learned Serjeant knew not; he hoped that it was not from any political consideration. Reluctant as was Taunton to take him, he had no choice, he could do nothing else; "for a boxkeeper, Gentlemen," said the learned Serjeant, "is a man of great power!" It was not a very pleasant thing for a gentleman of Mr. Clifford's rank in life, to be taken to the Office in Bow-street, on an accusation of having violated the laws. He was, however, seized, and taken before Mr. Read. Mr. Brandon did not appear until he had been sent for. On arriving, he with very great flippancy makes his charge against the plaintiff, who he described as having rioted all night. To this accusation, Mr. Clifford's reply deserves to be particularly noticed. "Give him the book, and let him swear to it—but, before he swears, I warn him against it—for if he does, from the profession of Boxkeeper, I solemnly assure him, he shall be exalted to a situation of superior eminence, that will be worthy of his merits."—Mr. Brandon, however, did not swear, though he took the book in his hand. "Not," said the learned Serjeant, "that I suppose any particular reverence for that book restrained him—for the man who knowingly says what is false, cannot be supposed to put much difficulty in persevering in his assertion." The moment the book was in his hand, all that he had to say was, that Mr. Clifford had worn an O. P. in his hat. "Is there any thing against him but the wearing of this O. P.?" said Mr. Read. "No."—"Then, Mr. Clifford, you are discharged." All the witnesses that could be produced, could not make out a better case than had Mr. Brandon thus made. "Mr. Read," said the learned Serjeant, "is my witness," and he hoped the Defendant would not have the folly and temerity to attempt a defence by any thing "cooked up." How dared Mr. Brandon to cause the defendant to be seized, if he did not know him to have been guilty of a riot? It was in vain to attempt an exculpation of this outrage. He had now stated the case fairly; and in making such observations as had occurred to him, he had endeavoured to divest himself of every prejudice in favour of his client, whose case he should prove to be strictly such as he had stated it. As the better part of valour was discretion, he apprehended that it would not be attempted to be shewn that the Proprietors of Covent-garden Theatre were *playing legally*, and if the defendant could not contradict the evidence that would be given, the learned Serjeant asked, with confidence, the verdict of the Jury for the full damages laid in the declaration, which he was sorry to say did not exceed one hundred pounds. Was the sum of one hundred pounds too much—was it enough—for those who, having *first provoked a riot*, afterwards sheltered themselves under an accusation, preferred against a person, whose demeanour would be proved to have been peaceable and unoffending? It was neither for the value of the damages, nor from personal resentment, that his Client asked for a verdict—it was for the attack that had been thus wantonly and maliciously made on his character, by the brutal and ruffian-like outrage that had been committed on his person.

The first witness called was a Gentleman of the name of *Hipkins*. He had been with Mr. Clifford to the Pit; there was some disturbance; Mr. Clifford had an O. P. in his hat, which was not put in by himself but a stranger, who had previously asked Mr. Clifford whether there was any harm in wearing it; to which he answered in the negative. During the whole night, Mr. Clifford conducted himself peaceably; was seized by a Bow-street officer as he was leaving the Pit; said he would go peaceably with him; was present when Mr. Read discharged him. On his cross-examination, said he never was in the pit of any Theatre before the 31st of October; could not hear the entertainment for the noise; had heard a greater noise before from a thousand drunken sailors; heard the people exclaim, "Here comes the honest Counsellor;" as he entered the Pit, the people made room for him, and they were let pass into the centre of the Pit.—Several others were called, who all corroborated this testimony, as to the peaceable conduct of Mr. Clifford; and the case was closed for the plaintiff.

Mr. Serjeant SHEPHERD said, that his client is a servant to the Proprietors of the Theatre, who had done no more than what he conceived to be his duty. Whether he was justified in point of law was another question. All they had to do was, to decide upon the facts before them according to the principles of law which they would hear laid down by the Learned Judge. He trusted that the law would be so laid down, as that no doubt would remain on their minds upon which side they must return a verdict. They were bound to receive and take the directions of his Lordship, who (and his Lordship must pardon him for so saying), if he mistook the law, was liable to have his mistake corrected. The Jury would be guided therefore by what his Lordship said, for however honest the opinions of Jurymen, they must attend to the law. Sure he was, that not one of the Gentlemen whom he had the honour of addressing, would go home satisfied, unless they gave a verdict according with the facts and the law of the land. His Learned Friend (Mr. Serjeant Best) had talked of the Managers being guilty of extortion and tyranny; and he very unexpectedly insinuated, that if they went on from step to step, the consequences might be ruinous. He thought it right there-

fore to state, for the information of persons who were crowding the Court, lest any misguided man should go away with the impression, that because the Managers were guilty, in his Learned Friend's opinion, of extortion, that they might erect themselves into bodies, proceed to the Theatre, and commit acts of riot and disorder. God forbid! that the punishment of any supposed grievance should be entrusted to such executioners. The law had provided a remedy, and it was not for them to take the remedy into their own hands, in the way in which they had done, and in which the plaintiff had made himself, by his act, a participator. His Learned Friend had described his client as a man of talents, of a noble family, and of a high character. He was ready to admit that the honourable profession of which Mr. Clifford is a member entitled him to the character of a Gentleman, and that he possessed talents. While he admitted this he must lament, that a man so connected, and possessing such a vast knowledge of the law, should so far pervert those talents as to lend himself as the instigator of riots at a public theatre, giving sanction to proceedings disgraceful in the highest degree; if any had been misled, it was by the conduct of Mr. Clifford, who, standing in the centre of the Pit with the ensign of riot in his hat, encouraged and instigated those around him to riot.—What motive induced Mr. Clifford to give advice, what power compelled him to hoist the ensign in his hat, and to superintend the proceedings? Why his own free will. The present question was not a question of the power of Managers, except this: whether they should consent to be ruined by self-constituted authority. When therefore his Learned Friend was talking of extortion on the part of the Proprietors, and that they should reduce their prices from seven to six shillings, why he might as well say, that these authorities have the right to compel the Managers to reduce their prices from seven shillings to sixpence. If any right existed, with respect to charges for admission, the Managers have it vested in themselves by law. On the subject of private boxes, that was not the mode in which the right should be tried. Suppose for instance, 50 or 100 persons should conceive the Managers were demanding an exorbitant price for admission, and that 50 or 100 were of a different opinion, and each party were to go to the Theatre to enforce and assert their rights; see to what it would tend. The contest could not be decided without riot, perhaps not without bloodshed, and might end in the death of some persons. If the Managers were wrong, the law was open to redress the grievances of the public. The Proprietors acted under a patent granted to their predecessors on certain conditions. If the public could shew that the patent had been abused, they might proceed to get it repealed; the proceeding which was open to them in that case was by writ of *fieri facias*, on which the Judge would decide as to the law, and a Jury upon the facts. Let the public but shew the patent had been infringed—

Chief Justice MANSFIELD.—"Not infringed, brother Shepherd. If it is abused, or it is shewn that the Patentees have not complied with the conditions upon which the patent was granted, then it may be revoked. I have known instances, particularly in the case of Arkwright, who had obtained a patent, which was revoked for abuse."

Mr. Serjeant SHEPHERD contended, that the public, if they could shew abuse of the monopoly, might obtain redress. The Managers opened the Theatre to the public, who were at liberty to enter upon paying the charges of admission. When his Learned Friend talked of the patent's not being produced, why any person who would take the trouble to walk to the Enrolment Office in Chancery-lane, might not only see and read it, but he might also obtain a copy of it to take home, where he might pick as many flaws and holes in it as he chose. The question which the Jury had to try was, whether on the 31st of October there was a riot at Covent Garden Theatre, and whether Mr. Clifford was encouraging and instigating that riot. The case had been attempted to be tried on the ground that Mr. Clifford was not so employed; to be sure there was no window in Mr. Clifford's breast through which you might get an insight into his mind; his intention could only be known by his acts. The Learned Serjeant, in order to shew his intentions, proceeded to comment on the evidence adduced, which he contended evidently shewed that his intentions were riotous, for would it, he observed, be likely that Mr. Clifford would go to the Theatre unless he wished to be a party in the rows; a man of the rank of that Gentleman would have taken his place too in the boxes, and not have gone to the pit in the midst of the riots, if it had not been for the purpose of giving countenance to the rioters. His Learned Friend had said that noise was not riot; now his opinion of the law was, that if persons assembled legitimately together for any purpose of amusement, and afterwards made a noise and disturbance—that constituted a riot. One of the witnesses said that Mr. Clifford had stood up to prevent being crushed: that was a proof of the sort of riot which was going on. Riot was the effect of the unusual and extraordinary noises which they made, to prevent and frustrate the legitimate purpose for which they met. Some foolish persons had expressed opinions as to the right of shewing approbation or disapprobation at a play. For his own part, he never had hissed a play above twice; he should be sorry to see a stupid play pass without censure; but to talk of this species of riot and tumult as the honest expression of disapproval by an English audience, was an insult to the understanding. It was indeed nothing less than a previous determination to compel the Managers to reduce their prices. The witness, Hipkins, had, when asked whether he had ever seen or heard a greater noise than in the Theatre on the 31st of October, replied, "Yes, when he saw 1000 drunken sailors assembled together." Now if the Jury had seen these sailors so assembled, would they not have said, "what a confounded riot there is?" The fact was, that these sailors were quarrelling, as the Covent Garden public were, about the landlord's bill! The Learned Serjeant insisted, that for a person to seal his mouth in the midst of a riot, having the ensign of riot in his hat, and to think he escaped from blame, was folly. Mr. Clifford, "the honest Counsellor," from whom, by the cheers with which he was hailed, they had reason to expect honest advice, could not so escape. He marched into the centre of the ranks of the rioters, hoisted the ensign, and gave his advice. In his opinion his acts shewed him as much their leader as if he had actually placed himself at their head. Mr. Serjeant Shepherd ridiculed the idea of assimilating the conduct of persons wearing favours at elections with the conduct of the O. P.'s. In the former case, it was the symbol of the person being the partizan of a certain candidate; in the latter, the symbol of riot. Cockades of this kind were not long ago the ensigns of treason; many persons in the year 1780, during the riots, who stood inactive spectators, wearing the blue cockade in their hats, had suffered at the gallows because their neighbours' houses were pillaged and burnt. Mr. Clifford, in keeping his mouth shut, evinced a species of cunning. If a man was inclined to riot, let him do it boldly and manfully, and not stand by insidiously fomenting and encouraging what he dared not do openly. With respect to the riot there could be no doubts, and the only remaining question was, whether the defendant was justified in causing Mr. Clifford to be apprehended? On that point he must contend, that the Officer was not bound to risk his life by rushing into the body of the rioters, but that he was authorised to seize him as they were separating. In the present case, Mr. Clifford was apprehended before he had left the scene of riot. The conduct of the Magistrate, in discharging Mr. Clifford when brought before him, had nothing to do with the present question; but if he might be allowed to express his opinion, he should say that the Magistrate did wrong.—Mr. Serjeant Shepherd concluded with expressing his hopes (as it was of importance to the public justice of the country that the heads of some men should be set right), that the Jury would find a verdict for the defendant.

Chief Justice MANSFIELD then charged the Jury, observing, that the action was brought to obtain damages from the defendant for having imprisoned the plaintiff. The fact of the imprisonment had been proved. No person had proved the precise duration of the imprisonment; it might be a quarter,

or half an hour. It was for this imprisonment the present action was brought; and the defendant justified himself generally by stating in his pleas, that the Theatre was a public Theatre; that the Proprietors and Managers were lawfully authorised to act tragedies, comedies, &c.; that on the night in question there was a riot in the Theatre; that the plaintiff instigated and encouraged that riot, and for that breach of the peace the defendant arrested him. On the part of the plaintiff, it had been asserted, that supposing the fact to be so, yet the defendant was not justified in arresting him, because the riot being over, and the defendant being a private person, he could not legally arrest him, and also, that when the officer laid his hand upon him, he was out of the Pit. With respect to the authority to act these plays much had been said. The persons who contributed to prevent the representations had made no objection to the legality of the demand of prices, because they had paid the prices demanded. The questions, therefore, which the Jury would have to try were, in the first place, whether Mr. Clifford was encouraging and instigating the rioters; and, secondly, whether at the time of his apprehension he was in such a situation that a private person could legally arrest him. As to the first question, the Jury had it in proof that the Theatre had for some time previous been the scene of perpetual riot of a very violent nature. The Learned Judge was not aware upon what ground it was pretended that any person might go into the Theatre and make a prodigious noise, supposing the right of approbation or disapprobation to exist. Persons were not of necessity obliged to go into the Theatre; performances were not an article of life. He did not know how extortion was applicable to these Proprietors. They were not obliged to build the Theatre, but having built it, and provided for the amusement of the public, they only were at liberty to judge what prices they should exact. If, as was said, they had done wrong in attempting to exact the prices, there was an obvious way of punishing them, which the public had within themselves—that was, by abstaining from visiting the Theatre. It seemed that the Learned Counsel for the Plaintiff wished to inculcate an idea, that if the Managers raised the prices, what he called "the Public" had a right to go to the Theatre and put an end to the exhibitions, and so in fact to ruin the Theatre. If the Managers had a patent, and the condition on which they obtained that patent was, that the prices of admission should not be raised, then they forfeited their patent. Instances of revoking patents had occurred within his Lordship's knowledge. The erection of private boxes was an alleged grievance; they were tolerated at the Opera, and at Drury-lane, and he did not know what right the public had to interfere with them. If the Proprietors exacted unreasonable prices, they would be ruined; as to compelling them to lower their prices at the Theatre, there was no ground upon which by law the public could maintain their demand. Their proceedings were a disgrace to the Theatre, and almost approached to that period when barbarism was prevalent.—No man of character would suffer his wife or daughter to go to a Theatre where violence and confusion was going on; it was illegal in the highest degree to continue such acts, and every person concerned must be answerable for it to the extent of his crime. Approbation or disapprobation, so long as it rested on the voluntary clapping of hands, or hissing at the moment, nobody could find fault with, nor ever did; but that mode of expression was subject to this restriction: If men before the performance of a new piece meet for the purpose of injuring the Manager, the Author, or any of the Performers, in the language of theatrical people, to damn the piece, they were undoubtedly guilty of conspiracy, and might be indicted and punished for it. On the other hand, nobody would quarrel with them for acting on the impulse of the moment. With respect to the riot, the law says, that if any person encourages, takes part in, or promotes a riot, or shews, either by violence, signs, or words, or carries about him the ensigns of riot, he is equally guilty; the law makes no distinction between the principal and accessary. If any person endeavours to effectuate an illegal purpose, that is a riot. The extent of that depends on the number of persons, for it does not follow that any personal injury should be committed, nor that the house should be pulled to pieces. The act of endeavouring by noise and tumult to compel the Managers to reduce their prices, was, in the opinion of the Chief Justice, a riot. There was no necessity for terror to be used, yet how was it possible to accomplish what was doing without terror. This being so, then the next question was, whether Mr. Clifford was engaged in the riot. The Jury were to consider the situation which that Gentleman held in the world; he was a Barrister, and the misguided people would naturally conclude that they were safe in doing what he did. It was a very different thing in effect whether the badge of O. P. was worn by a common person, or by a person of the rank of the defendant. What authority he had, the Jury might very well form an opinion from the evidence, for when he entered the Pit, he was greeted with the exclamation of "here comes the honest Counsellor!"—How did it happen that when the rattle was sprung, upon his speaking to the person it was immediately silenced? It would be for the Jury to consider from these circumstances, whether he was not a person of great authority with these rioters. It was impossible to suppose that Mr. Clifford, when he went to the play, was ignorant of what had passed for some time in the Theatre, unless he had been asleep for two months. When there, then, did he know the meaning of O. P.? If not ignorant of the meaning, he must know that the putting the badge in his hat was like belonging to the regiment, and putting a cockade on. Why did he suffer this O. P. to remain in his hat, if it was not to encourage them to go on, and by his example to do that which was, as they thought, legal and right? The Jury would Judge, therefore, for what purpose he went to the Theatre, whether to encourage disorder or not. Supposing they thought he did, then the next question was the legality of the arrest. If, on the other hand, they should be of opinion the plaintiff was entitled to recover, they would be so good to say upon what grounds they found for the plaintiff; whether on the ground that he did not encourage the rioters. The Plaintiff's Counsel had truly concluded that a private person cannot arrest another for a breach of the peace after it is over—a book which he had before him expressed that to be the law. The learned Judge concluded, with directing the Jury to give such damages, on the event of their finding for the plaintiff, as would compensate for half an hour's imprisonment.

The Jury retired for some time, and returned a verdict for the plaintiff.—*Damages 5l.*

Sir *J.* MANSFIELD then requested the Foreman to acquaint him whether they found for the Plaintiff upon the illegality of the arrest, or upon the ground that Mr. Clifford had not been guilty of a riot.

The FOREMAN replied, that on the illegality of the arrest, they were unanimous. With respect to the question of Mr. Clifford having been concerned in a riot, there was a difference of opinion. That question had not, however, been decisively discussed, as the Jury were *unanimous* in their verdict on the first principle.

Sir JAMES MANSFIELD—I am sorry that that question was not decided, for it leaves the thing as equivocal as ever. I am indeed very sorry that the Jury did not agree on the distinct grounds of the verdict, for this shocking mistake of the public will still go forth, and public outrage may be continued by A FURIOUS MOB,—it deserves no better name;—they may think themselves authorized to take justice into their own hands, and gratify their revenge by violence and outrageous conduct, even, perhaps, to the ruin of their country. What may be the consequence of such a spirit, it is impossible to foresee; but certain I am, that it leads to every kind of horror—possibly to the *subversion of Government*, certainly to great evils, perhaps the worst that can be endured by a nation.

JURYMAN—We found the verdict on the ground that the Plaintiff was *illegally apprehended.*

Sir JAMES MANSFIELD—That's equivocal, and decides nothing—for he might be a rioter, and yet illegally apprehended by being taken after the thing was over.

JURYMAN.—It was generally thought rather harsh to con

strue wearing O. P. into an act of riot, and by some, that it would be *inconsistent with public rights.*

Sir JAMES MANSFIELD then addressed the Bar.—The Gentlemen of the Jury do not state on what particular ground they have given their verdict—what they state is by no means decisive. All of them were of opinion, it seems, that the arrest was illegal; but they do not state the grounds on which they considered it to be so. Some of them thought it illegal, because of the apprehension after the thing was, in their opinion, over; while others were of opinion, that it was rather harsh to construe the wearing O. P. in the hat into an act of riot. Some of them thought that such a construction would be inconsistent with the rights of Englishmen; but nothing decisive has been declared on this important subject.

[On the verdict being pronounced, the crowd within the Court gave three cheers, and rushing down the steps into the hall, joined the multitude which had assembled there during the trial, and immediately one general cheer, repeated several times, was given. A vast number of the Officers of the Sheriff were in waiting to enforce order, but their presence and exertions were incompetent to preserve decorum. At length the crowd, after amusing themselves by sham fights, departed along the public street, cheering as they passed, and exclaiming, "Clifford for ever."—Mr. Kemble, it is said, was insulted in the Hall.]

COURT OF EXCHEQUER.

Tuesday, Dec. 5.

HARRISON v. JOHNSON.

This was an action brought by the plaintiff to recover the deposit of 100*l.* paid by him to the defendant on his entering into a contract with him for the purchase of his interest in the lease of the *Joiner's Arms* public-house, for an unexpired term of 75 years, at a rent of 10*l.* 10*s.* The premises consisted of a house, yard, and skettle-ground. The plaintiff paid a deposit of 100*l.* on signing the agreement, but afterwards, on looking into the defendant's title, it appeared that he held the house for an unexpired term of 75 years, at the rent of 10*l.* 10*s.* but the yard and skettle-ground for a term of three-fourths of a year only, at a distinct rent of 2*l.* 12*s.* 6*d.* but which was not noticed in the agreement; nor had it ever been pointed out to the plaintiff when he went to view the premises, who treated for the public-house and skettle-ground, as it was shewn to him, as one entire property, held for one term, and subject to one rent. The defendant therefore having agreed to sell a greater interest in the property than he was possessed of, was unable to assign to the plaintiff the interest which the plaintiff had agreed to purchase.—Verdict for the plaintiff, 110*l.* 10*s.*

MIDDLESEX SESSIONS.

Monday, December 4.

Thomas Herbert was indicted for assaulting Lieut.-Col. Vigereaux. The circumstances of the case were as follows:—The Colonel, who had served his country most honourably, and who is badly wounded, was riding on horseback to his country-house at Chiswick, when he met the defendant and two others, who were in a gig; the defendant, who was driving, cut the Colonel with his whip; the Colonel remonstrated, and demanded why the gentleman had thus insulted him? but was answered in the most insulting language. The Colonel then rode after him, and called at the toll-gate, at Hyde Park Corner, to shut the gate, upon which the defendant got out of his gig, and wanted the Colonel to fight him; the Colonel told him he was wounded, and could not, and demanded the defendant's address; the defendant told him, he was Capt. Herbert, and he could find him in the City at any time; the Colonel, not content with this, followed him to Dowgate-hill, in the City; the defendant again got out of his gig, struck the Colonel several times, and attempted to pull the Colonel off his horse; upon which the Colonel said, "Is there a gentleman present who will see a man who has lost the use of his leg in defence of his country thus used?" A gentleman answered, that he knew the defendant, who was in the cotton trade.—The Counsel for the defendant even acknowledged the justice of the prosecution.—The Jury found him guilty; and the Chairman, in a speech of some length, wherein he dwelt on the enormity of the crime, pronounced the sentence of the Court, viz.—To be imprisoned three months in Newgate, and fined 50*l.*

On Friday, *James* and *Mary Marlborough* were put to the bar, charged with treating Mary Marlborough (an infant child of the husband by a former wife) with horrid barbarity. Our readers will recollect a former statement of this shameful case, which was fully proved in Court. The little brother of the girl told a tale of woe indeed. He said that his step-mother was in the frequent habit of plunging his little sister into a tub of cold water; that she used to beat her with sticks, with rods, with a toasting fork, and that the two black eyes which she had when found under the bed were given her on that day by her step-mother with a spoon. The boy having given his evidence, which he did in a manner that surprised the whole Court, several other persons were called, in corroboration of his testimony, in which they perfectly concurred. It turned out in the course of the inquiry that James Marlborough had beat his wife for her ill-treatment of his children. They were found guilty; and the Court sentenced the woman to one year's imprisonment in the House of Correction, Cold-bath-fields, and the man to 14 days in Newgate.

POLICE.

BOW-STREET.

On Thursday, Mr. *M'Gill*, a gentleman from Hampstead, was charged with hooting, hissing, and disturbing the performance. The defendant was conspicuous in the first tier of boxes, during the fourth act of the play, and he was proved to have called out, "Clifford and O. P. for ever," and to have danced the O. P. dance.—The defendant was held to bail.

ACCIDENTS, OFFENCES, &c.

Sunday evening, as Mr. Shute, of Clipstone-street, was returning from a visit to a friend, at Buconsfield, accompanied by Mr. Shute, and two children, in a double seated one-horse chaise, the horse broke from his harness, and the chaise was upset. Mrs. S. and one of the children, who was riding with her in the back seat, were removed to a neighbouring house, in a senseless state, and both are dangerously hurt. The other two persons jumped out, in doing which the other child broke his leg at his ancle; but Mr. S. escaped unhurt.

MARRIAGES.

On the 2d inst. at Ashwell, Herts, Mr. A. Robertson, of Fetter-lane, to Miss Katharine Hart, of Ashwell.

DEATHS.

On Tuesday Captain Hicks, of the Navy, dined at the house of Mr. Vigers, in Southampton-street. He appeared in perfect health and spirits. He left Mr. Vigers's in a hackney coach, accompanied by a Mr. Owen, who separated from him at the end of Norfolk-street. The coachman drove him to Catherine-street, in the city. On opening the door of the carriage, he found that Captain Hicks did not move; thinking he was asleep, he attempted to wake him; a candle was then brought, and it was found that he was dead.

On Tuesday morning the eccentric character, George Wood, Esq. at his apartments, in Belgrave-place, Pimlico. He was well known by the name of *Peck and Booze*. In his face he very much resembled his Majesty, and he talked like him.—He was very partial to conversing with the Officers of the Guards, while the relief was going on, and where his appearance and behaviour attracted general notice, particularly in laughing very loud.

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